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09/825,470	04/02/2001	David Lawrence	3499-107	1341

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NEW YORK, NY 10019-6131

EXAMINER
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MOONEYHAM, JANICE A

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/825,470

Applicant(s)

LAWRENCE, DAVID

Examiner

Janice A. Mooneyham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,5-9,11-20 and 24-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2, 5-9, 11-20, 24-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This is in response to the applicant's communication filed on July 7, 2005, wherein:

Claims 1-2, 5-9, 11-20, and 24-27 are currently pending;

Claims 3-4, 10 and 21-23 have been canceled;

Claims 1-2, 5-6, 11-14, 16, 20, and 25 have been amended.

### ***Response to Amendment***

### ***Claim Rejections - 35 USC § 112***

**The following is a quotation of the first paragraph of 35 U.S.C. 112:**

**The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.**

2. Claims 1-2, 5-9, 11-20, and 24-27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The following terms and concepts are not defined in a concrete manner that would allow someone to duplicate the invention. There are no clear and adequate explanations of the following terms so as to allow one wishing to duplicate and use the invention to do so:

Structuring with a processor the information received relating to details of the legal action according to predetermined criteria (the predetermined criteria has not been

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defined, it has not been defined how information is structured using this predetermined criteria), the scaled numeric value or scaled alphanumeric value indicative of an amount of risk has not been defined, it has not been defined how the scaled numeric value or scaled alphanumeric value is based upon a portion of the structured information. It has not been defined how the scaled numeric value or a scaled alphanumeric value indicative of an amount of risk is generated.

Applicant states on pages 10-11 of the response that the scaled numeric or alphanumeric value is calculated by:

- a) assigning a numerical value representative of the risk associated with a particular piece of information (p. 12 lines 2-3),
- b) assigning a weight to a risk assessment factor to which the information is assigned (p. 12 lines 8-10); and
- c) multiplying the numerical value times the weight to obtain a risk factor (p. 13 lines 10-13)
- d) summing up multiple risk factors to obtain a risk quotient (scaled alphanumeric value) (p. 13 lines 13-14).

The specification therefore explicitly states one exemplary way to implement the invention, which includes multiplying (an assigned numerical value representative of risk associated with a piece of information) x (a numerical weight of a risk assessment factor to which the information is assigned) and summing up the results for multiple pieces of information to obtain a risk quotient (scaled numerical or alphanumeric value).

The calculation leaves only a subjective or general description of how to make the calculation. There is no detailed or concrete, full, concise and exact written description of how one would quantify and calculate the scaled numeric or alphanumeric value.

On page 14 of the specification, the applicant identifies the risk quotient as being typically a scaled numerical score based upon values for weighted criteria. What are the weighted criteria? What is the numerical scale?

There is no list of essential elements or questions identified to produce a concrete result. The specification provides very little usable clear guidance as to how to objectively make the determination that is produced in the report.

With respect to subjective information entered by a user, this subjective information would result in a different value depending on the scaled values that the individual uses, how the values are assigned and the weight the individual assigns to a factor. Thus, for each individual performing the invention, the result would be different and would have a different meaning. Therefore, the invention does not produce a repeatable or concrete result as required by the statute. The users of the invention must conduct a great deal of experimentation on their part in order to use the invention – to the point where the users become the inventor of their own application of the invention, rather than the applicant.

**The following is a quotation of the second paragraph of 35 U.S.C. 112:**

**The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.**

3. Claims 1-2, 5-9, 11-20, and 24-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant states that wherein the scaled numeric value or scaled alphanumeric value is based upon at least a *portion* of the structured information. It is unclear to the Examiner what the applicant means by "at least a portion of the structured information". What is the "structured information"?

### ***Claim Rejections - 35 USC § 101***

#### **35 U.S.C. 101 reads as follows:**

**Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.**

4. Claim 1-2, 5-9, 11-20, and 24-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. The claimed invention does not produce a concrete result. The invention as claimed is not repeatable and cannot be implemented without undue experimentation.

MPEP 2106 II A states as follows:

A process that consists solely of the manipulation of an abstract idea is not concrete or tangible. See *In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994). See also *Schrader*, 22 F.3d at 295, 30 USPQ2d at 1459.

Applicant admits on page 10 of applicant's response filed on September 16, 2004 that the present invention is free to generate a value via objective or **subjective** means.

Applicant states on page 10 that:

The present invention is not limited to any one method or algorithm for the generation of such a scaled value. Many techniques and methods can be adapted for the generation of a scaled value based upon the information relating to legal action. Applicant respectfully suggests that the present invention is not limited to any one algorithm or method for ascertaining the scaled numeric or alphanumeric value, and that generating such a person practicing the present invention is free to generate a value via objective or **subjective** means.

Applicant states on page 11 of the response that the "example on page 12, lines 15-27 specifically details that a risk assessment can be **subjective** to the client using the present invention, as can be a numerical value representative of the risk associated with a particular piece of information. Applicant further states that a risk assessment fact can be anything that is important to the client and relates to the client's status as party to a litigation or an amicus curiae".

Many subjective interpretive criteria are involved in coming up with the end result and it is not clear that the end result is predictive. There is no necessary list of essential elements or questions identified to produce a concrete result. The specification provides very little usable clear guidance as to how to objectively make the determination that is produced in the report.

Thus, for each individual performing the invention, the scaled values would be different, the factors would be weighed differently and each individual performing the invention, for the same set of facts, would come up with a different result and the result would mean something different to each of the individuals.

Thus, the applicant's invention is a process that consists solely of the manipulation of an abstract idea and therefore is not concrete.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 5-9, 11-20 and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heckman et al. ( US 5,875, 431) (hereinafter referred to as Heckman) in view of Halligan et al (2002/0077941) (hereinafter referred to as Halligan).

Referring to Claims 1, 16 and 20:

Heckman discloses a computer implemented method, system, and program code for managing risk related to a legal action, the system comprising a computer server (Figure 2 (27) (28)) accessible with a network access device via a communications network (Figure 2 (20) and (19)) and software to cause the system to perform the method (col. 5, lines 11-17; col. 12, lines 40-54) comprising:



receiving, into a computer memory, information identifying a person's status as at least one of a party to a legal action or an amicus curiae of the court in a pending legal action (Figure 3 (33) Case Specific Data; col. 8, lines 38-52; col. 10, line 65 thru col. 11, line 17);

receiving, into the computer memory, information relating to details of the legal action (Figure 3 (34) and Figure 4 Legal and Factual Issues)

generating a report (Figure 5-2 (68, 69) col. 13, lines 48-54; col. 14, lines 33-39 and 45-56; col. 17, lines 34-37).

Heckman does not disclose using a computer for structuring the information relating to details of the legal action according to predetermined criteria or generating a scaled numeric value or a scaled alphanumeric value indicative of an amount of risk associated with the legal action, wherein the scaled numeric value or scaled alphanumeric value is based upon at least a portion of the structured information or the report comprising the scaled numeric or alphanumeric value and at least the portion of the structured information upon which the scaled numeric or alphanumeric value is based.

However, Halligan discloses using a computer for structuring the information relating to details of the legal action according to predetermined criteria (*page 2 [0020-0023], page 6 [0094-0095], page 7 [0096] steps of applying a plurality of generally accepted legal criteria to the content of a trade secret; applying generally accepted legal criteria (e.g. the six factors of a trade secret as set forth in Section 757 of the First Restatement of Torts)*); generating a scaled numeric value or a scaled alphanumeric

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value indicative of an amount of risk associated with the legal action, wherein the scaled numeric value or scaled alphanumeric value is based upon at least a portion of the structured information (*page 2 [0020-0023], page 6 [0095], and page 7 [0096-0098]*) *assigning a value under each criterion and generating one or more metrics from the assigned values; the applicant may provide information about the estimated values of the six factors of a trade secret, such as on a 1 to 5 scale; assigning a value under each criterion and generating one or more metrics*); and the report comprising the scaled numeric or alphanumeric value and at least the portion of the structured information upon which the scaled numeric or alphanumeric value is based (*Figures 3-4, 6 – Report Outliers, page 3 [0034] calculating the ratios and other logical and mathematical values from various values associated with the trade secret and other data and displaying and printing the results; page 7 [0096] comparing the results with predetermined threshold values may be used to provide an objective measure of whether the trade secret is defensible, (i.e., defensible); used to establish that a court of competent jurisdiction would more likely than not find the existence of a trade secret*).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine analysis method and system of Halligan with the legal strategic analysis method and system of Heckman so that an evaluation can be performed to determine whether the trade secret is likely to meet the tests applied by the courts and comparing the results with predetermined threshold values which can be used to provide an objective measure of whether the trade secret is defensible, and thus any alleged misappropriation should be litigated if the defendability factors are high which

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may suggest a very important or defensible trade secret as opposed to trade secrets with low defensibility factors.

Referring to Claim 2:

Both Halligan and Heckman disclose generating a suggested action (*Halligan at page 7 [0096-0099] determination made; threshold values used to establish that a court of competent jurisdiction would more likely than not find the existence of a trade secret*) and Heckman at col. 5, lines 64-67 defining the most cost-efficient process by which a defined, acceptable case outcome may be obtained, col. 6, lines 13-17 provides the "best" legal strategic plan to achieve a desired out is enhanced as completed cases are analyzed, lines 45-48, col. 19 –BEST MODE, Figure 5-1 (62)).

Referring to Claim 5:

Both Halligan and Heckman disclose wherein the suggested action is responsive to the received information related to details of the legal action (*Halligan page 7 comparing the results with predetermined threshold values may be used to provide an objective measure of whether the trade secret is defensible; Heckman at col. 5, lines 64-67 defining the most cost-efficient process by which a defined, acceptable case outcome may be obtained, col. 6, lines 13-17 provides the "best" legal strategic plan to achieve a desired out is enhanced as completed cases are analyzed, lines 45-48, col. 19 –BEST MODE, Figure 5-1 (62) ).*

Referring to Claim 6:

Both Halligan and Heckman disclose wherein the suggested action is directed towards reducing risk related to a legal action (*Halligan – page 1 [0009] an evaluation should be done to determine whether the trade secret is likely to meet the tests applied by the courts; Section 757 of the First Restatement of Torts sets forth six factors for evaluating the existence of a trade secret to assist courts in adjudicating trade secrets, page 2 [0020], page 7 [0096-0098] and Heckman – col. 6, lines 9-23 provides “best” legal strategic plan to achieve a desired outcome).*

Referring to Claims 7-9:

Heckman discloses a strategic planning method and system with the ability to provide the “best” legal strategic plan (col. 6, lines 8-23, 45-64) which could encompass arbitration. Heckman discloses wherein the suggested action comprises commencing a litigation and wherein the suggested action comprises settling a legal action (*Figure 4 col. 22, lines 12-28 based on the results of the preliminary analysis, a decision is made to either go forward with legal action or stop and settle the case).*

Referring to Claim 11:

Heckman discloses wherein the received information comprises a venue for the legal action (*col. 8, lines 21-36 Venue, col. 16, lines 59-60 impact of the venue of the case, the relevant jurisdiction, col. 15, lines 21-22, Figure 2).*

Referring to Claim 12:

Heckman discloses wherein the received information is gathered electronically (col. 12, lines 49-54, Figure 2).

Referring to Claim 13:

Both Heckman and Halligan disclose a method further comprising aggregating scaled numerical or alphanumeric values relating to the person (*Heckman – defendants col. 8, lines 38-63 and Halligan – trade secrets*) and assessing an aggregate level or risk related to actions (*Heckman Figures 1-2, 3 (33 case specific data) (34, 35, 37, 38), Figure 4, legal and factual issues, nature of case, Figures 5-1 and 5-2; col. 7, lines 36-40 acceptable level of risk and uncertainty; col. 8, lines 5-20 summary of case facts, lines 37-52 Current Case Development; col. 11, lines 18-41; col. 20, line 67 thru col. 21, line 2 the risk of not achieving the desired outcome is a factor in selecting the baseline template; minimizing the risk of failure for each task; Halligan page 2-3 [0020-0034]; page 7 [0099] risk of loss of the trade secret*).

Referring to Claim 14:

Halligan discloses calculating an average scaled numeric value or a scaled alphanumeric value associated with the person (page 5 [0084] Table B, Figure 5 Calculate Employee Risk Factor; page 8 [0105-0106]).

Referring to Claim 15:

Heckman discloses a legal action with litigation (Figure 4). Heckman does not disclose that the legal action is a class action suit.

The fact that the legal action is a class action suit is determined to be nonfunctional descriptive data which is not functionally involved in the steps recited. The steps to the invention would be performed the same regardless of this data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms

of patentability, see *In re Gulack*, 703 f. 2d. 1381, 1385, 217 USPQ 401, 404 (Fed Cir. 1983); *in re Lowry*, 32 F. 3d 1579, 32 USPQ 2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this data because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of data does not patentably distinguish the claimed invention.

Referring to Claims 17-19:

Halligan discloses wherein the information is received via an electronic feed, wherein the network access device is a personal computer, or a wireless handheld device (pages 3-4 [0052-0066]).

Referring to Claims 24-27:

The fact that the person is a legal person or a natural person, or a combination of both or that the legal person is governmental entity, or that the suggested action comprises appearing as an amicus curiae of the court in litigation, or that the risk comprises legal, regulatory, financial and reputational exposure is determined to be nonfunctional descriptive data which is not functionally involved in the steps recited. The steps to the invention would be performed the same regardless of this data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 f. 2d. 1381, 1385, 217 USPQ 401, 404 (Fed Cir. 1983); *in re Lowry*, 32 F. 3d 1579, 32 USPQ 2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this data because such data does not functionally

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relate to the steps in the method claimed and because the subjective interpretation of data does not patentably distinguish the claimed invention.

*Response to Arguments*

6. Applicant's arguments filed July 7, 3005 have been fully considered but they are not persuasive.

**(a) Claim Rejections - 35 USC § 112**

The applicant argues against the Examiner's rejection under 35 USC Section 112, first paragraph for failing to comply with the enablement requirement. However, on page 10 of the response, applicant states the following:

The present invention is not limited to any one method or algorithm for the generation of a scaled value. Many techniques and methods can be adapted for the generation of a scaled value based upon the information relating to legal action. ***Applicant respectfully suggests that the present invention is not limited to any one algorithm or method for ascertaining the scaled numeric or alphanumeric value, and that generating such a person practicing the present invention is free to generate a value via objective or subjective means.***

However, the following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, **in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same** and shall set forth the best mode contemplated by the inventor of carrying out his invention.

As the claim language and specification are written, the disclosure is entirely subjective and incomplete and only provides a general description of old and well known approaches to common analysis of risk. The applicant has not provided a specific set of steps with a specific set of detailed criteria or values or algorithms or formulas. This is further evidenced by the applicant's admission on page 11 wherein the applicant states that:

In addition, at p. 12 lines 15-27, the specification lays out a specific example of how a scaled numerical or alphanumerical value may be calculated. The example on p. 12 lines 15-27 specifically details that a risk assessment weight can be **subjective** to the client using the present invention, as can be a numerical value representative of the risk associated with a particular piece of information. **A risk assessment factor can be anything that is important to the client and relates to the client's status** as party to a litigation or an amicus curiae.

The applicant's invention would not be consistent between users, but only within a single user since the user is allowed to use a risk assessment factor that is important to the user and relates to the user's status. The applicant has not provided a detailed set of logical formulas that would provide consistent results as between users. The specifications does not clearly and adequately explain with certainty exactly how the scaled numeric value indicative of an amount of risk associated with a legal action is determined. There are uncertain and non-specific examples in the specification as in the portion of the specification that the applicant directs the Examiner too under [0046]. The applicant states that there are actual numbers in this paragraph. However, the



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numbers are only given as an example without specifically identifying how they are applied.

As for the applicant's argument that the Examiner has chosen to disregard the objective basis for determining the disclosed numeric values, the Examiner is unable to determine the objective basis. There is no described predetermined criteria. There is no definition of what the scale of the score so that one can determine what level is considered high or low. There is no specific list of evaluation factors or any equations to determine how the value indicative of the amount of risk is determined.

The MPEP section 2164.01 (a) lays out Undue Experimentation Factors (A) through (H). The applicant's claims are broad and vague and there is essentially no direction provided by the inventor so that a user must conduct a great deal of experimentation on the user's part in order to use the invention – to the point where the user becomes the inventor of their own use of the invention, rather than the applicant.

As for the rejection under 35 USC Section 112, 2<sup>nd</sup> paragraph, the applicant states that applicant has amended the claims to clarify that "the scaled value or scaled alphanumeric value is based upon at least a portion of the structured information". The Examiner is aware that at least a part can be a portion. The Examiner is not clear what the applicant means by "structured information" and what the applicant means by using a portion of this structured information to base the value.

**(b) Claim Rejections - 35 USC § 101**

As for the applicant's arguments as to the 101 rejection, the Examiner directs the applicant to the detailed discussion above under the 101 rejection.

**(c) Claim Rejections - 35 USC § 103**

Applicant states that Heckman describes a case management software and not a risk management method or system. The Examiner respectfully disagrees with the assertion.

Heckman discloses a strategic planning system and process in which an iterative system and process has the ability to provide the "best" legal strategic plan to achieve the desired outcome (col. 6, lines 13-17). A strategic case plan consist of an accurate assessment of a case's potential opportunities and weakness (col. 7, lines 4-8). The legal team must decide on the acceptable level of risk or uncertainty permitted (col. 7, lines 36-39). A model would provide the added information of a calculated percent probability of achieving the desired outcome. This added information is useful where the risk of not achieving the desired outcome is a factor in selecting the baseline template (col. 20, line 49 thru col. 21, line 2).

The method and system of Halligan provides an opportunity to assess trade secrets. An evaluation is done to determine whether the trade secret is likely to meet the tests applied by the courts. In the United States, Section 757 of the First Restatement of Torts set forth six factors for evaluating the existence of a trade secret to assist the courts in adjudicating trade secret cases ([0009]). Halligan teaches applying generally accepted legal criteria, e.g. the six factors of a trade secret set forth in Section 757 of the First Restatement of Torts, to the trade secret, assigning a value under each criterion and generating one or more metrics (defendability factors). Comparing the results with predetermined threshold values may be used to provide an

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objective measure of whether a trade secret is defensible [0096]. Thus, this would aid in the determination of whether to proceed to litigation with a trade secret or not.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

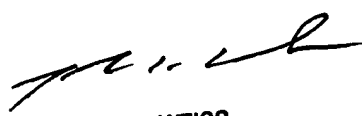
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janice A. Mooneyham whose telephone number is (571) 272-6805. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JM

  
JOHN G. WEISS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600